



MULTISTATE TAX COMMISSION

REPORT

Meeting of the
Multistate Tax Commission
Doubletree by Hilton Hotel
181 Church Street

Charleston, South Carolina 29401

Dial-In Number to Participate by Phone: 1 (800) 689-9374 – passcode 371632#

December 10, 2015

8:30am – 4:30pm Eastern

This report is also available on the MTC website at mtc.gov. Follow the links to the meeting event.

To: Multistate Tax Commission Uniformity Committee
From: Richard Cram, Chair, Tax Whistleblower Workgroup
Sheldon Laskin, MTC Counsel
Subject: Report on Status of Tax Whistleblower Project
Date: December 10, 2015

Introduction

This report is given on behalf of the Tax Whistleblower Workgroup to update the Uniformity Committee on the status of the project.

Background

In July 2012, the Commission was approached by taxpayer representatives who requested the Commission's endorsement of the ABA Model Transaction Tax Overpayment Act. In November 2012, the Uniformity Committee began a project to study the Model Act and to make a recommendation to the Commission as to whether or not the Commission should endorse the model. In addition, at the request of COST the Committee also decided to study the problem of state false claims actions regarding underpayment or undercollection of tax. The impetus for the request was a series of state sales tax overpayment class actions initiated by one law firm in Illinois.

*If you would like additional information about this meeting, contact Helen Hecht, General Counsel,
Multistate Tax Commission, 444 North Capitol Street, N.W., Suite 425
Washington, D.C. 20001 | Tel: (202) 650-0300 | e-mail: hhecht@mtc.gov*

The Committee first turned its attention to the problem of class actions for tax overpayment. In July 2014, the Committee recommended that the Commission endorse the Model Act and the Commission did so at its July 2015 meeting.

Following the July 2014 meeting, the Committee took up the issue of false claims act actions for underpayment of tax. The workgroup initially decided that the problem of frivolous or harassing actions arising out of alleged underpayment of tax should be addressed in the broader context of providing whistleblower remedies for legitimate third party allegations of tax underpayment. In January 2015, a presentation was made to the Uniformity Committee by Randall Fox, Esquire, Stephen Whitlock, Director of the IRS Whistleblower Program and Professor Dennis Ventry, UC Davis School of Law, to explore both a false claims act model and a whistleblower model to address the issue of tax underpayment. Ultimately, the Committee decided to continue working on a tax whistleblower model and not to pursue a false claims act model.

Summary of the Issues for Discussion by the Uniformity Committee

The workgroup convened a series of biweekly telephone conferences to finalize an issues list to be addressed in any proposed model. Initial work on this list was largely completed as of October 2015. However, no state representative to the workgroup (other than the workgroup chair, Richard Cram) has called into the conference calls during the previous three calls. Representatives of the public have called in to every call.

At this time, staff requests the Committee's advice on whether to proceed with the project and whether it has the necessary state interest and support.